

Application Serial No. 10/586,216

OT-5370

REMARKS

Reconsideration of this application is respectfully requested in view of the following remarks. Applicants thank the Examiner for the remarks and analysis contained in the Office Action.

1. Rejections of Claims 1-5 under 35 U.S.C. §§ 102(b), 103(a)

The Examiner again rejected: (a) claims 1-3 under 35 U.S.C. § 102(b) as allegedly being anticipated by International Patent Application Publication No. WO2002/060802 ("Mori"); (b) claim 4 under 35 U.S.C. § 103(a) as allegedly being obvious in view of Mori; and (c) claim 5 under 35 U.S.C. § 103(a) as allegedly being obvious when considering Mori in view of U.S. Patent No. 4,556,129 ("Martin"). For at least the following additional reasons, Applicants respectfully traverse each of these rejections.

As previously presented, claim 1 (*i.e.*, the claim from which claims 2-5 depend) recites an elevator car that includes, among other possible things (*italic emphasis added*):

a single, rigid toe guard member slidably *mounted to a bottom of the car* so as to be slidable upwards in the event that the toe guard member strikes a bottom of a hoistway pit.

As hereafter explained, Mori neither standing alone nor combined with Martin teaches or suggests such an elevator car.

Claim 1 recites, as above-italicized, a single, rigid toe guard member that is slidably mounted to the bottom of the car. In contrast, Mori discloses a moveable plate 7b that is mounted to a fixed plate 7a that, in turn, is mounted to the bottom 6 of the car 1. In contrast, the instant invention teaches (and recites in claim 1) a movable toe guard member 10 that is slidably mounted to the sill 2 that defines the bottom of the car.

In addition to the foregoing, although Martin teaches a singular toe guard member that is mounted to a sill 22 that defines the bottom of the car, Martin's toe guard is not slidable and would not work in the framework of Mori. Specifically, the safety switch (trip wire 52, fuse 64) of Martin's toe guard only works if the toe guard is rotated. As the safety features of Martin's toe guard can not function in the slidable environment presented by Mori, one of ordinary skill in the art would have no reason to combine Mori with Martin. In other words, one of ordinary skill in the art would have no reasonable expectation of success when combining Mori and Martin. *See* M.P.E.P. § 2143.02.

As Mori standing alone fails to teach or suggest each of the limitations of claim 1, and as Mori is not properly combinable with Martin to teach or suggest each of the limitations of

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claim 1, claim 1 is allowable over Mori and Martin. Moreover, as claims 2-5 depend from claim 1, each of these dependent claims is also allowable over Mori and Martin, without regard to the other patentable limitations recited therein. Accordingly, a withdrawal of the various §§ 102(b), 103(a) rejections of claims 1-5 is both warranted and earnestly solicited.

2. Conclusion

In light of the foregoing, claims 1-5 are in condition for allowance. If the Examiner believes that a telephone conference will be useful to move this case forward toward issue, Applicant's representative will be happy to discuss any issues regarding this application and can be contacted at the telephone number indicated below.

Please charge Deposit Account No. 15-0750 with any fees, credits or overpayments in connection with this matter.

Respectfully submitted,

March 30, 2009

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